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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-------------------|
| 10/614,017 | 07/08/2003 | Stanley Grant Kinzel | 152.5 | 9509 |
| 26109 | 7590 | 05/19/2004 | EXAMINER | |
| THOMAS E. MALYSZKO SUITE 1500 250 - 6 AVENUE, S.W. CALGARY, T2P 3H7 CANADA | | | | BRITTAIN, JAMES R |
| | | ART UNIT | | PAPER NUMBER |
| | | 3677 | | |
| DATE MAILED: 05/19/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|-----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/614,017 | KINZEL, STANLEY GRANT |
| | Examiner | Art Unit |
| | James R. Brittain | 3677 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/11/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. §102(b) as being clearly anticipated by Deising (US 5947052).

Deising (figures 1-4) teaches a clip 13 for retaining an accessory 15 with at least one hole 23 therethrough on an edge of a member 11 having first and second opposed sides comprising: a block portion 29 adapted to be located adjacent the edge on the first side of the member, and having an aperture extending thereinto; a jaw portion 63 adapted to engage the block portion and the second side of the member, a plug member 57 adapted to extend through the hole and be seated within the aperture; and a fastener 75 for urging the jaw portion toward the block portion for gripping the edge therebetween to retain the clip on the edge, and for engaging the plug member to fix the plug member in the block portion and thereby secure the accessory to the block portion and the member. While the device of Deising is disclosed for securing an accessory in the form of a shield to the edge of a windshield of a boat, the claim is construed so that the automobile member is only recited in a statement of intended use as indicated by "for retaining an accessory with at least one hole therethrough on an edge of an automobile member" (lines 1-2); "adapted to be located adjacent said edge on said first side of said automobile member" (lines 4-5); "adapted to engage said block portion and said second side of said

automobile member" (lines 6-7); and "for urging said jaw portion toward said block portion for gripping said edge therebetween to retain said clip on said edge, and for engaging said plug member to fix said plug member in said block portion and thereby secure said accessory to said block portion and said automobile member" (lines 10-13). The claim construction does not include the automobile member and the clip of Deising is inherently capable of securing an accessory to an automobile member.

Conclusion

The patents of Matthis (US 4471991, figures 8-12), Williams et al. (US 4518191, figure 3), Mastin (US 4836598, figure 3), Gross (US 4883303, figure 3), Horwill (US 5630639, figures 2, 3; US 5707097, figure 2), Berry (US 2638376, figure 3), Lowery et al. (US 4052099, figure 2), and Alley (US 5791719, figure 3) teaches pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB